In the Claims:

Please replace claims 5-7, 14-16, 21, and 34-36, and add claims 46, 47 and 48, as shown below.

1.-4. (Canceled)

5. (Currently Amended): An implant adapted to be placed between spinous processes comprising:

a spacer that is adapted to fit between spinous processes, the spacer including a first portion and a second portion ~~movable relative to each other~~ pivotably connected at a hinge; and

~~means for adjusting~~ a threaded screw arranged in a plane with the hinge; and

an actuatable spreading device rotatably mounted on the threaded screw to adjust the height of the spacer in order to adjust the spacing between the spinous processes;

~~wherein the adjusting means further includes a slotted sphere~~.

6. (Currently Amended): The implant of claim 5 wherein the actuatable spreading device is a ~~the~~ slotted sphere that engages the first and second portion of the spacer to maintain the profile height.

7. (Currently Amended): The implant of claim [[~~5~~]] 6 wherein the slotted sphere engages a screw extending from between first and second portion of the spacer to maintain the profile height.

8.-13. (Canceled)

14. (Currently Amended): An implant adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

spacer pivotally mounted on the ~~body~~ shaft, the spacer including a first portion and a second portion; and

mechanism positioned between the first portion and the second portion that can adjust a space between the first and second portion; and

wherein the mechanism of the implant further comprises a screw arranged generally perpendicular to the shaft and ~~a slotted sphere~~ an actuatable spreading device engaging threads of the screw.

15. (Currently Amended): The implant of claim 14 wherein the ~~slotted sphere~~ spreading device engages the first and second portion of the spacer to maintain the profile height.

16. (Currently Amended): The implant of claim 14 wherein the ~~slotted sphere~~ spreading device engages a screw extending from the hinge between the first and second portion of the spacer to maintain the profile height.

17.-20. (Canceled)

21. (Currently Amended): An implant adapted to be placed between spinous processes comprising:

a body having a shaft extending therefrom;

~~first~~ a wing extending from the shaft and adapted to be placed adjacent a first and a second spinous process;

a tissue expander extending from the distal end of the shaft;

said body including a spacer that is rotatably mounted to the shaft, the spacer having a first portion and a second portion; and

a mechanism that is mounted to the spacer and that can adjust the spacing between the first and second portions of the spacer.

22. (Original): The implant of claim 21 wherein the spacer is elliptical in shape with the first portion and the second portion divided about a major axis of the elliptical shaped spacer.

23. (Original): The implant of claim 21 wherein the first portion and the second portion of the spacer are connected by a hinge.

24. (Original): The implant of claim 21 wherein the mechanism of the implant further comprises a slotted sphere.

25. (Original): The implant of claim 24 wherein the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

26. (Original): The implant of claim 24 wherein the slotted sphere engages a screw extending from between the first and second portion of the spacer to maintain the profile height.

27. (Original): The implant of claim 21 wherein the mechanism of the implant further comprises a jack.

28. (Original): The implant of claim 27 wherein the jack engages the first and second portion of the spacer to maintain the profile height.

29. (Original): The implant of claim 27 where the said jack is adjustable to a greater profile and a lesser profile by turning a screw in one of a first direction and a second direction.

30.-33. (Canceled)

34. (Currently Amended): An implant adapted to be placed between spinous processes comprising:
a body having a shaft extending therefrom;
a tissue expander extending from the distal end of the shaft; and
a spacer that is rotatably mounted on the shaft,
wherein the spacer has an adjustable profile~~; and~~
~~wherein the spacer of the implant further comprises a slotted sphere~~.

35. (Currenly Amended): The implant of claim 34 wherein:
the profile of the spacer is adjustable by a slotted sphere; and
the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

36. (Currently Amended): The implant of claim ~~34~~ 35 wherein the slotted sphere engages a screw to maintain the profile height.

37.-39. (Canceled)

40. (Previously Presented): An implant adapted to be placed between spinous processes comprising:
a body having a shaft extending therefrom; and
a spacer that is rotatably mounted on the shaft;
wherein the spacer has a hinged body having a first portion and a second portion; and
a device to adjust a space between the first portion and the second portion;

wherein the device of the implant further comprises a slotted sphere.

41. (Original): The implant of claim 40 wherein the slotted sphere engages the first and second portion of the spacer to maintain the profile height.

42.-45. (Canceled)

46. (New): An implant adapted to be placed between spinous processes comprising:

a spacer that is adapted to fit between spinous processes, the spacer including a first portion and a second portion pivotably connected at a hinge; and

an actuatable spreading device including a threaded screw arranged in a plane with the hinge;

wherein the spreading device is actuatable to adjust the height of the spacer in order to adjust the spacing between the spinous processes.

47. (New): The implant of claim 46, wherein the actuatable spreading device further includes a slotted sphere engaging the threaded screw.

48. (New): An implant adapted to be placed between spinous processes comprising:

a spacer that is adapted to fit between spinous processes, the spacer including a first portion and a second portion pivotably connected at a hinge; and

an actuatable spreading device arranged in a plane with the hinge;

wherein the spreading device is actuatable to adjust the height of the spacer in order to adjust the spacing between the spinous processes.